

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

TEDDY RANDALL MITCHELL,

Plaintiff,

v.

CV 16-1072 WPL/KK

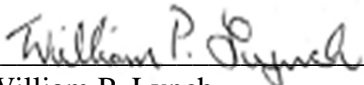
CNO FINANCIAL GROUP, INC.
d/b/a Bankers Life and Casualty, and
JEFFREY A. HAKES,

Defendants.

ORDER

Plaintiff Teddy Mitchell filed a motion for jury trial (Doc. 12) and a motion for default judgment (Doc. 13). Both motions are denied. Mitchell demanded a jury on page 34 of his Complaint (Doc. 1), rendering his motion for a jury moot. Mitchell's motion for jury trial (Doc. 12) is therefore denied as moot. Additionally, Mitchell seeks entry of default judgment against Defendant Hakes (Doc. 13), but never sought a clerk's entry of default pursuant to Federal Rule of Civil Procedure 55(a), which is a prerequisite for default judgment under Rule 55(b). *Garrett v. Seymour*, 217 F. App'x 835, 838 (10th Cir. 2007) (unpublished). Furthermore, Hakes filed an Answer on October 26, 2016 (Doc. 9)—approximately 26 days after he was served with the original summons (Doc. 7) and at the appropriate time after he was served with the amended summons (Doc. 8). The motion for default judgment (Doc. 13) is likewise denied.

It is so ordered.



William P. Lynch
United States Magistrate Judge